

ASSOCIATION DES COURTIERS ET AGENTS IMMOBILIERS DU QUÉBEC

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Linking practice and theory

Annual Report :: 2004

Published by the Association des courtiers  
et agents immobiliers du Québec

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Association des courtiers  
et agents immobiliers  
du Québec

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## Members of the Board of Directors

### **Elected Chairman**

Serge Brousseau

### **Elected Directors**

Robert Aubin . . . . .	Western
Diane Bourbonnière . . . . .	Montréal
Robert Chabot . . . . .	Québec
Raymond Desbiens . . . . .	Eastern
David Farber . . . . .	Montréal
Georges Halasz . . . . .	Montréal
Daniel Pelchat (Treasurer) . . . . .	Central
Paul Robert . . . . .	Montréal

### **Directors appointed by the government**

Louise Clément

Jean Mathieu (Vice-Chairman)

### **President and Chief Executive Officer of the ACAIQ**

Robert Nadeau

### **Secretary of the ACAIQ**

Claude Barsalou



Mr. Michel Bissonnet  
President of the National Assembly  
Government of Québec

Québec

Dear Mr. President:

I have the honour of submitting the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 2004.

Respectfully yours,

Michel Audet  
Finance Minister



Mr. Michel Audet  
Finance Minister  
Government of Québec

Québec

Dear Minister:

Please find attached the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 2004.

Yours very truly,

Abraham Assayag  
Interim Enterprise Registrar



Mr. Abraham Assayag  
Interim Enterprise Registrar  
Government of Québec

Québec

Dear Sir:

We are pleased to submit the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 2004.

Yours sincerely,

Serge Brousseau  
Chartered Real Estate Agent  
Chairman of the Board



## Chairman's Report

**Serge Brousseau**  
Chairman of the Board

*It is my pleasure to present the Annual Report of the Association des courtiers et agents immobiliers du Québec for the year 2004. It includes the President and CEO's report on our organization's current activities, those of the Office of the Syndic, the Discipline Committee, the Professional Inspection Committee and the Treasurer, as well as the Auditors' Report*

*This past year, the Board of Directors was kept busy with several issues, including the revision of the Real Estate Brokerage Act and the creation of a professional liability insurance fund. Major changes are imminent and must infuse each of us with a renewed vision of real estate brokerage and the professionalism of its brokers and agents. Here then are my thoughts on the future of our profession.*

We can no longer assume that we will be considered indispensable in a real estate transaction. The public must be made aware of our role and of the advantages of dealing with a certified real estate professional. In addition, collaboration must be a concern for all real estate brokers and agents, in order to prevent our profession from being ill-perceived due to our actions and internal squabbles.

The law is there to edict specific rules, the procedures we must follow and the education we need to perform our duties. The rest depends on us. All brokers and agents must take control of their own careers. Respect and collaboration will be key if they want to make their mark. The image of the profession can only gain from this. Beyond stereotypes, I think that we must be considerate of one another in order to be perceived more positively in the public's eye. To do this, there is no need to wait for new regulations or for the Association to issue guidelines. We must show that we take our profession to heart at all times. ■

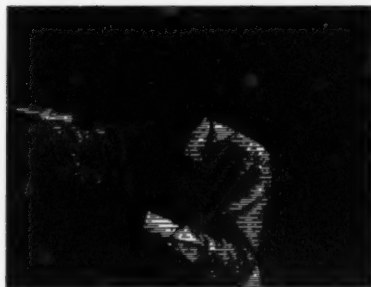
Personally, I have been working in the field of real estate brokerage for over 20 years, and that is because I sincerely believe in it. Real estate brokers and agents will have to be increasingly knowledgeable about their responsibilities and the tasks they must carry out in order to meet the needs of their clients, i.e. the buyers and the sellers. With the new information technologies available, clients are better and better informed when they call on our services. They expect us to give them professional and courteous service and to be able to provide answers to all their questions. They also expect results. Our compensation stems directly from what we do to satisfy our clients. To maintain our compensation at a level that I would call reasonable, we must not only be more knowledgeable, but also have the skills that consumers expect in order to give us their trust. This is how we will justify the compensation we are asking for, and not the other way around.

There is no need for us to wait for the Association or for the profession to impose this way of doing things. Each one of us is responsible for acting properly, because that is what you do when you love what you do. In my opinion, the most important thing is to show respect for our clients, and in order to do that, we have to start by showing respect for our colleagues and the institutions to which we belong. This is where our Code of Ethics becomes most meaningful. Rather than criticize the work of other members of the profession, let's start by establishing our own value and showing it to our colleagues and the public. Thanks to this new model, consumers will trust us and will want to do business with a real estate agent. Let's make sure that we still have a viable profession in ten or twenty years.

In ending, I would like to thank the members of the ACAIQ Board of Directors and the members of the various committees that work to advance the interests of the profession. I would also like to thank our President and CEO, the members of his management committee and the entire ACAIQ staff for their dedication and efficiency.



**Serge Brousseau**  
Chairman of the Board



## President and Chief Executive Officer's Report

**Robert Nadeau**

President and Chief Executive Officer

*I am pleased to present the Association des courtiers et agents immobiliers du Québec's activity report for the year 2004. This year was marked by numerous projects as well as an increase in the volume of our activities, a direct consequence of a booming real estate market. We had to hire additional staff and reorganize our physical environment in order to maintain the quality of our service and meet the needs of the public and of our swelling membership.*

The year was an exceptional one in terms of certificate renewals and candidates to the entrance examination. At the beginning of the year, the ACAIQ had 12,190 members, whereas 13,659 certificates were renewed as of December 31, 2004. The pilot project for online renewals, launched this year, was very successful. It involved four brokers, representing about 300 members. They found the system simple and efficient. We plan on using this method again in 2005. The number of candidates to the entrance examination totalled 3,043 this year against 1,897 last year, a 60% increase.

Here are this year's highlights: ■



## Revision of the Real Estate Brokerage Act

Following the tabling of the Report on the Application of the *Real Estate Brokerage Act* in June 2004 by Finance Minister Yves Séguin, a meeting was held in September between the management of the ACAIQ, the Quebec Federation of Real Estate Boards and the twelve real estate boards to review the recommendations contained in the report. The great majority of the government's proposals were approved by the ACAIQ and all stakeholders, including franchisors. The Association is preparing its response to the report and expects to submit it to the government at the beginning of 2005.

## Professional Liability Insurance Fund (errors and omissions)

A Bill to create a real estate brokerage professional liability insurance fund was tabled by the Government in December 2004 following a request by the ACAIQ aimed at putting an end to the problem of the dearth of insurers prepared to cover brokers as well as exorbitant premium hikes. This Bill amends the *Real Estate Brokerage Act* and allows the ACAIQ to set up an insurance fund and set by regulation the premium that will be paid by real estate brokers. It also calls for the Fonds d'indemnisation to transfer a portion of its assets to this fund in the months following its creation.

The creation of this insurance fund is in the best interest of consumers and members of the profession. It will ensure that adequate coverage is maintained to be able to protect the public.

## Info ACAIQ

In 2004, the Info ACAIQ telephone information center received about the same number of calls as the previous year, i.e. 28,174 compared to 28,298 in 2003. This service is being consistently used. The great majority of queries – about 80% – are directly related to the practice of real estate brokerage. Most cases involving transactions where the parties are experiencing difficulties are settled by the Info ACAIQ center. About 48% of all calls received this year came from the public, and documents were sent to callers in 50% of cases.

## Assistance ACAIQ

Assistance ACAIQ has completed its second year of operation with a focus on consolidating its methods. This service is now a little less involved in mediating civil conflicts, preferring to direct the public to Small Claims Court, or other tribunals when the amounts justify it. The Assistance Service is now known to the members, who seem to appreciate the fact that it is less judicialized than the old system. They find it efficient and readily cooperate to try and solve problems. It takes an average of 28 days to settle a case. The objective of reducing waiting times pursued by the Board of Directors has therefore been achieved.

The Assistance Service received 1,488 cases in 2004 compared with 1,549 the previous year. This year, 1,459 cases were closed, including 161 that were transferred to the Office of the Syndic and 80 to Legal Affairs for motives related to illegal practice.

## Activities related to illegal practice

A decision handed down on August 16, 2004 states that notaries and lawyers may only engage in a brokerage transaction occasionally and incidentally, under a mandate received from a client in their capacity as notary or lawyer.

According to judge Gabriel De Pokomándy of the Court of Quebec who handed down the decision, the problem was that the notaries concerned argued that they were not governed by the *Real Estate Brokerage Act* because they were covered by the exception outlined in section 2. Judge De Pokomándy declared that the expression "in the course of their practice" simply means "in the course of the normal performance of the functions of notary or lawyer". Therefore, a brokerage transaction cannot be the essential or initial aspect of the mandate entrusted to the notary or the lawyer. As of December 31, 2004, this case was being appealed.



## SUMMARY OF CASES INVOLVING ILLEGAL PRACTICE

Files carried over from previous years	69
Files opened between January 1 and December 31, 2004	105
<b>Total</b>	<b>174</b>

Denunciations rejected prior to opening of file	29
-------------------------------------------------	----

### Files closed in 2004

#### Reasons for closure

Absence or insufficient evidence (and/or prescription)	66
Insufficient evidence and commitment	1
Insufficient evidence and certificate issued	3
Advertising only	2
Owner of the immovable or lessee	6
Exception to section 2 of REBA	4
Guilty plea	9
Judgment (guilty verdict)	5
Judgment (acquittal)	0
Member involved	0
Other	5
<b>Total</b>	<b>101</b>

### Files active as at December 31, 2004

#### Status of pending cases

Under external investigation	63
Awaiting Board authorization	0
Awaiting trial (Court of Quebec)	6
Under appeal	3
Awaiting judgment	1
<b>Total cases</b>	<b>73</b>

## Important principles spelled out in a decision

Following a motion for a declaratory judgment, last fall Superior Court judge Jean-Jacques Crêteau rendered a decision confirming that the exclusive brokerage contract may be modified to authorize the client to sell his immovable on his own without affecting the exclusive character of the contract. The decision is being appealed.

In his decision, Judge Crêteau noted the dual nature of the *Real Estate Brokerage Act*, as a law governing professionals and protecting consumers. The notion of exclusive brokerage contract only concerns intermediaries, i.e. brokers. The Court reiterated the responsibilities of the different bodies, specifying that the ACAIQ by law has a mission to protect the public, whereas the role of real estate boards is to protect the interests of their members.

## Continuing education

We are convinced that continuing education is the key to helping our members offer the best service and adequately protect the public. The popularity of our education activities with our members tells us that they too are convinced of the importance of good training to better serve consumers and the profession.

This year was an outstanding one in terms of the number of conferences and education sessions, with 350 activities totalling 8,929 registrants compared to 309 in 2003. The most popular event in 2004 was the session on the Purchase Brokerage Contract, with 112 activities. In total, 2,305 members from every corner of the province of Québec attended this session in order to familiarize themselves with this new form introduced at the beginning of the year which will be increasingly used in future.

## CONTINUING EDUCATION – 2000 TO 2004

	Number of activities	Number of participants
2000	74	2,720
2001	150	5,714
2002	203	8,500
2003	309	9,903
2004	350	8,929

## MANDATORY EXAMINATION – 2004

	Affiliated agents	Chartered brokers and agents
Candidates	3,045	171
Successes	2,644	129
Failures	13%	24.56%
% success	86.9%	75.4%
Average grade	78%	72.83%

## General meeting

The sixth edition of the *ACAIQ Education Event* was held in Saguenay on April 21-22, 2004, in conjunction with the annual general meeting. Under the theme "Our History and Our Future", this event was a tribute to our profession and a portrait of its evolution over time. On this occasion, the ACAIQ celebrated 10 years of existence and marked the 50th anniversary of the *Chambre immobilière du Saguenay*.

At this event, attended by some 300 participants, the ACAIQ presented Mr. Jean-Guy Labrèche with the *Québec Real Estate Brokerage Award*, a symbol of elevation, cooperation and success. Mr. Labrèche, who, sadly, passed away three days before the event, was a long-time, highly-respected trainer in the field of real estate brokerage.

## acaiq.com

Again this year, the acaiq.com website saw a highly increase in traffic with an average 38,344 visitors per month compared to 31,183 last year. Tens of thousands of pages were accessed and viewed. In addition, 430,463 documents were downloaded from the site, a monthly average of 35,872.

*Synbad*, the extranet site for the exclusive use of ACAIQ members, features various online products and services, including ACAIQ Electronic Forms. This service enables members to create and modify real estate brokerage forms from a server or directly from their personal computer. Access to these forms was free in 2004 and will continue to be so in 2005. Some 2,800 users took advantage of this very attractive offer. In addition, 37 three-hour education sessions were offered free to about 450 participants to teach them how to use electronic forms.

## BREAKDOWN OF ACAIQ MEMBERSHIP

	as at January 1 2005	as at January 1 2004
<b>By certificate category</b>		
Chartered agent	2,218	2,131
Affiliated agent	9,814	8,440
Chartered broker	1,554	1,545
Affiliated broker	73	74
	<b>13,659</b>	<b>12,190</b>
<b>By sex and average age</b>	<b>2005</b>	<b>2004</b>
Men (average age: 49 years)	7,300	6,511
Women (average age: 47 years)	5,237	4,581
	<b>12,537</b>	<b>11,092</b>

# **BREAKDOWN OF ACAIQ MEMBERSHIP (cont'd)**

By region (as at January 1, 2005)	Brokers	Agents	Total
<b>Montréal region</b>			
Montréal (06)	548	4,512	5,060
Laval (13)	103	1,252	1,355
Montréal (16)	299	2,337	2,636
<i>Sub-total</i>	<i>950</i>	<i>8,101</i>	<i>9,051</i>
<b>Québec region</b>			
Québec (03)	178	967	1,145
Chaudière - Appalaches (12)	31	115	146
<i>Sub-total</i>	<i>209</i>	<i>1,082</i>	<i>1,291</i>
<b>Eastern region</b>			
Lower St. Lawrence (01)	16	110	126
Saguenay - Lac Saint-Jean (02)	18	179	197
North Shore (09)	6	32	38
Northern Québec (10)	1	2	3
Gaspésie - Îles-de-la-Madeleine (11)	4	6	10
<i>Sub-total</i>	<i>45</i>	<i>329</i>	<i>374</i>
<b>Central region</b>			
Mauricie - Bois-Francs (04)	51	306	357
Eastern Townships (05)	73	306	379
Lanaudière (14)	59	469	528
<i>Sub-total</i>	<i>183</i>	<i>1,081</i>	<i>1,264</i>
<b>Western region</b>			
Outaouais (07)	44	434	478
Abitibi - Témiscamingue (08)	10	53	63
Laurentians (15)	113	1,025	1,138
<i>Sub-total</i>	<i>167</i>	<i>1,512</i>	<i>1,679</i>
<b>Total</b>	<b>1,554</b>	<b>12,105</b>	<b>13,659</b>

By banner (as at January 1, 2005)	Brokers	Agents	Total
Independents	1,101	3,429	4,530
Century 21	30	767	797
Groupe Sutton	63	2,156	2,219
La Capitale	57	1,004	1,061
Le Permanent	2	12	14
Re/Max	194	2,965	3,159
Royal LePage	82	1,599	1,681
Trans-Action	13	41	54
Exit	12	132	144
<b>Total</b>	<b>1,554</b>	<b>12,105</b>	<b>13,659</b>

## Financial results

We are ending the 2004 with an excess of revenues over expenses of \$1,234,816. The Association saw a substantial increase in its revenues due to an influx of new members attracted by a very active real estate market. This increase, combined with management's on-going cost control efforts to maintain our expenses at a minimum enabled us to post a surplus. In addition, the vitality of the market and the unprecedented volume of transactions carried out by our members led to a sizeable boost in the sale of supplies.

## A very busy year

The Association, whose expertise is recognized by the public and the profession, received extensive media coverage with regards to building inspections and real estate fraud. More than a hundred public interventions took place, not including the many regular queries received from journalists.



On November 2, 2004, the ACAIQ, in cooperation with the Fonds d'indemnisation du courtage immobilier, organized a seminar on real estate fraud. More than 250 professionals from the real estate, finance, insurance and notarial sectors participated in this event to find out the latest development in this area and identify solutions.

Last fall, the members of the Discipline Committee attended a two-day education session. On this occasion, the Association marked the impending departure of Me André Desagagné, Chairman of the Discipline Committee, by presenting him with a commemorative plaque. The hearing room will be named Salle André-Desagagné in his honour.

Concerning our members-only Partners Program, a new car rental partner has been added. More options will be made available in 2005 in the fields of health and technology.

## CERTIFICATE MANAGEMENT

	Brokers	Agents
Issuances	149	3,509
Reclassifications		
chartered broker > chartered agent	-29	29
chartered agent > chartered broker	19	-19
affiliated agent > chartered agent	0	111
Reinstatements	0	1,389
Suspensions	41	2,448
Expirations	95	2,046
Cancellations	34	14
Abandonments	0	1
Renewals	1,545	10,645

The Association is showing its civic-mindedness by adopting a mission to help social agencies such as Fondation Jean Lapointe and Suicide Action Montréal. Several gestures have already been made in pursuit of endeavour.

In ending, allow me to thank the members of the Board of Directors for their valuable contribution. I would also like to extend my appreciation to the entire ACAIQ staff for their efficiency and professionalism.

**Robert Nadeau**  
President and Chief Executive Officer

# Syndic's Report



**François Pigeon**  
Syndic

*The role of the Syndic of the Association des courtiers et agents immobiliers du Québec is closely linked to the quality of professional actions and the protection of the public. The Syndic is responsible for investigating cases of alleged misconduct by real estate brokerage professionals in the course of their duties and for filing complaints with the Discipline Committee where warranted. The Syndic may also initiate an investigation on his own initiative or upon recommendation by the ACAIQ Professional Inspection Committee.*

## Highlights

For the first time, we investigated flips (successive sale of immovables) and the new phenomenon of houses that have been used for pot-growing operations. We have maintained our offensive in the area of collaboration between members by focusing on prevention and systematically recommending to the Discipline Committee that members acting in bad faith be disciplined through certificate suspensions. The Committee followed this recommendation in several cases.

On the administrative front, 2004 was marked by the transfer of prosecutors from the Office of the Syndic to the ACAIQ Legal Affairs Department. Resources were augmented with the hiring of a new assistant syndic and an internal investigator. Major work was accomplished in planning investigations, including the development of a basic investigation plan and a fraud investigation plan. Investigations conducted by the Office of the Syndic are increasingly long and complex and deal with serious violations.

## Statistics

2004 was the first full reference year on the processing of investigations by the Office of the Syndic since the creation of Assistance ACAIQ. Thanks to the excellent work of this department, which sorts through all requests for assistance received from the public and the membership and settles the great majority of them, the Office of the Syndic was able to bring the number of investigations opened in 2004 down to 235, allowing it to devote itself entirely to major cases.

In addition, 256 cases were settled by using, whenever appropriate, alternate methods to reach a settlement that was agreeable to all parties. We also stepped up collaboration with several major players such as financial institutions and police authorities. This is explained in great part by the fact that the Office of the Syndic now focuses on investigations involving collaboration between ACAIQ members, fraud, conflicts of interest and pothouses. ■

# INVESTIGATIONS INVOLVING ACAIQ MEMBERS • JANUARY 1<sup>ST</sup> TO DECEMBER 31, 2004

	Investigations opened during the month		Investigations completed during the month		Under investigation / pending	
	2004	2003	2004	2003	2004	2003
January	21	53	48	35	243	419
February	13	37	26	66	230	390
March	18	51	32	43	216	398
April	25	31	23	40	218	389
May	21	27	18	30	221	386
June	10	27	17	32	214	381
July	27	17	7	15	234	383
August	20	16	13	24	241	375
September	14	29	12	34	243	370
October	26	7	28	47	241	330
November	20	6	18	49	243	287
December	20	19	14	36	249	270
<b>Total</b>	<b>235</b>	<b>320</b>	<b>256</b>	<b>451</b>		

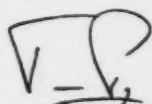
In total, 95 cases were referred to ACAIQ prosecutors for the drafting of complaints. A total of 79 complaints were filed with the Discipline Committee in the course of the year.

It is interesting to note how the sanctions of the Discipline Committee have evolved. Fines totalled \$135,000 in 2002, \$65,600 in 2003 and \$57,900 in 2004. However, there were five cases of certificate suspensions in 2003, including one for five years, while this number went up to 17 in 2004, including two permanent revocations.

At the Office of the Syndic, we think that certificate suspensions and their consequences serve as a better example and deterrent than mere fines. This is why in case of serious offence, the Discipline Committee favours this sanction over stiff fines.

## Our team

In ending, allow me to salute the Office of the Syndic staff with whom I am privileged to work. These dedicated and professional individuals make up a terrific team! I also wish to thank my colleagues of the Management Committee and the members of the Board of Directors for their contribution to the betterment of our services. My sincere thanks to all!



**François Pigeon**  
Syndic

## Reports on investigations under or awaiting review by prosecutors

December 31, 2004	December 31, 2003
66	68

## Number of complaints filed

2004	2003
79	39

## Cases closed after review by prosecutors - no complaints filed

2004
18





## Report from the Discipline Committee

**Me André Desgagné, Q.C.**

Chairman of the Discipline Committee

*Established under section 128 of the Real Estate Brokerage Act, the Discipline Committee is a totally autonomous tribunal that acts independently of the Board of Directors and staff of the Association des courtiers et agents immobiliers du Québec. It reviews all complaints made against members of the ACAIQ for infringements of the Act and regulations.*

*Each complaint is judged by three members of the Committee, who are the chairman or substitute chairman and two members of the profession. The chairman and substitute chairman are two lawyers appointed by the Government of Québec, and the members of the profession are part of the group of slightly more than 40 real estate brokers or agents appointed as members of the Discipline Committee by the ACAIQ Board of Directors.*

*The Discipline Committee operates primarily in accordance with the provisions of the Professional Code. Some of the committee's decisions can be appealed, following the terms and conditions stated in the Code and the Act. ■*

TABLE I

## NUMBER OF CASES

	2004	2003
Current as at January 1	27	50
Filed during the period	79	40
	106	90
Less		
Decisions rendered on penalties	43	54
Rejected complaints/acquittals	1	7
Withdrawals/termination of proceedings	0	2
Current files as at December 31	62	27

TABLE II

## HEARINGS - POSTPONEMENTS - DECISIONS

	2004	2003
Hearings held		
On guilt	44	40
On penalties	40	41
Postponements granted		
Before the hearing	33	9
After representations to the Committee	0	0
Decisions		
Under deliberation on guilt	5	5
Under deliberation on penalties	4	5
Rendered on guilt	41	51
Rendered on penalties	43	50

TABLE III

COMMITTEE DECISIONS  
BY COUNT

	2004	2003
Decisions on guilt		
Guilty decisions	75	87
Non-guilty decisions	5	11
Withdrawal of counts	3	13
Decisions on penalties		
Reprimands	10	11
Fines	39	58
Mandatory courses	4	5
Restrictions on right to practice	0	1
Cancellations/suspensions*	21	29
Continuing education	3	n/a

Complaints, hearings and decisions  
(Tables I to III)

(January 1 to December 31, 2004)

As of December 31, 2004, 79 complaints had been filed with the Discipline Committee, all by the Office of the Syndic of the Association. These 79 complaints covered a total of 171 accusation counts.

The Committee held a total of 44 hearings on guilt and 40 on sanctions. Thirty-three postponements were granted, all before the hearing took place.

By year's end, the Committee had rendered 41 decisions on guilt and 43 on sanctions. Five decisions on guilt and four on sanctions were under deliberation at the close of the period.

The Committee returned guilty verdicts on 85 accusation counts, including 19 involving guilty pleas, and non-guilty verdicts on four counts. In addition, there were two cases where an accusation count was withdrawn by the Syndic, and one more where the Committee rejected a count.

\* The suspensions ordered by the Discipline Committee in connection with an accusation count are usually accompanied by a fine. In some cases, a suspension can be ordered without necessarily being connected to an accusation count. In addition, the Committee may have suspended a defendant's certificate on several accusation counts relating to the same complaint, for periods to be served concurrently.

## Penalties by accusation count (Table IV)

The Discipline Committee may impose penalties ranging from a reprimand to a temporary or permanent revocation of the right to practice professional activities, or fines between \$600 and \$6,000 per accusation count.

The Committee imposed 10 reprimands (or severe reprimands), 39 fines and, in four cases, recommended that the Board of Directors require a member to attend courses and pass the corresponding exams. There were also 21 cases of certificate suspensions/cancellations for periods ranging from 15 days to permanent revocations.

Fines totaled \$57,900, while costs to be reimbursed by defendants amounted to \$65,802.94. The Committee determines a penalty based on its deterring effect as well as the nature and seriousness of the violation.

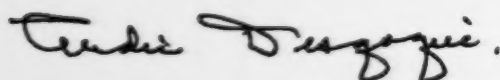
In all, 14 notices of suspension were published in newspapers (including Info-ACAIQ) and/or on the Association's website in 2004.

TABLE IV  
FINES, COSTS AND PUBLICATIONS

	2004	2003
<b>Penalties</b>		
Total fines	\$57,900	\$81,400
Total costs to be reimbursed	\$65,802.94	\$74,099.99
<b>Publications in newspapers</b> (in accordance with section 137 of the Real Estate Brokerage Act)		
Suspensions/cancellations	14	8

## Nature of violations

The accusations brought before the Committee involved violations to the *Rules of Professional Ethics of the ACAIQ*, the *By-Law of the ACAIQ*, the *Regulation respecting the Application of the Real Estate Brokerage Act*, and the *Real Estate Brokerage Act*. An accusation count may be based on more than one section of the Act or its regulations.



Me André Desgagné, Q.C.  
Chairman of the Discipline Committee

## Make-up of the Discipline Committee

The members of the Discipline Committee are appointed for a three-year mandate. The chairman and substitute chairman are appointed by the government, among lawyers with at least ten years of practical experience. The others, all members of the ACAIQ, are appointed by the Board of Directors of the Association. The Committee secretary is also appointed by the Board of Directors.

### Chairman

Mc André Desgagné

### Substitute chairman

Mc Gilles Duchesne

### Members

Albert-Mongrain, Darlene  
Allard, Denis  
Ariëns, Imelda  
Belley, Louise  
Bolduc, Daniel  
Bissonnette, Suzanne  
Cayer, Louis  
Charron, Claude  
Cholette, Ginette  
Ciocca, Salvatore  
Corbeil, Jean-Marc  
Couturier, Roger  
Daoust, Robert  
De Langavant, Laura-Nancy  
Dufresne, Yvan  
Dupras, Marie-Andrée  
Fecteau, Luce  
Fodini, Nancy  
Gagnon, Micheline  
Gagnon, Normand  
Gaspard, Jean-Pierre  
Gaulin, Patricia  
Giroux Laveau, Lana

Goulet, Christian  
Hardacker, Lois  
Houde, Yves-Denis  
Jacques, Sylvie  
Jones, Stewart  
Kimpton, Pierre  
Langelier, Michèle  
Laurin, Jean  
Lecompte, Éloi  
Léger, Éric  
Leroux, Robert  
Mailloux, Luc  
Mammarella, Domenico  
Patry, Pierre  
Pépin, Lucie  
Racine, Normand  
Tassone, Vittoria  
Thibault, Renaud  
White, Kenneth

### Secretary

Diane Heppell

# Report from the Professional Inspection Committee

*Professional inspection is at the heart of the activities of the Association des courtiers et agents immobiliers du Québec. The mission of the Professional Inspection Committee is to supervise the carrying on of the activities of the members of the Association, with the exception of professional competence, in particular by auditing their records, accounts, books and registers.*

*The Committee may therefore extend its actions to every application of the Real Estate Brokerage Act and its regulations, as well as to all members of the Association. It is called upon to make recommendations to the ACAIQ Board of Directors based on observations made in the course of its inspections.* ■



**Raymond Desbiens**

Chairman of the Professional Inspection Committee

## Make-up of the Committee

The members of the Professional Inspection Committee are appointed by the ACAIQ Board of Directors. At the beginning of 2004, they were:

Mr. Raymond Desbiens, Chairman  
Mr. André Baillargeon (completed his mandate in June 2004)  
Mr. Pierre Martel  
Mr. Toufik Noubani (completed his mandate in June 2004)  
Mrs. Christiane Saint-Jean  
Mr. Pierre Houle (started in December 2004)  
Mr. Marc-André Pilon (started in September 2004)

Secretary: Mrs. Cécile Martineau

### Inspectors

Mrs. Francine Boucher  
Mrs. Jacqueline Houle (until April 2004)  
Mr. Jacques Couture  
Mr. Serge Legault

## Inspections

In 2004, all brokers inspected at their establishment or during a startup session received a report clearly identifying any discrepancies, the actions required and specific deadlines for implementing them.

The "action required" included in the inspection reports deals primarily with advertising, record-keeping (supporting documents) and registers, trust accounts and the drafting of contracts.

If the broker does not take the required corrective action, the Professional Inspection Department may, among other things, recommend that the broker take additional training or ask the broker and his agents to attend a mandatory meeting, or "inspection follow-up". This follow-up, facilitated by the Professional Inspection Manager, is a "preventive" and "corrective" meeting aimed at raising agent awareness about the most common errors in advertising, record-keeping, archiving, disclosure of compensation agreements and notices of disclosure of conflict of interest. In 2004, ten such follow-up meetings were held for brokers with 20 or more agents.

## Priorities

In 2004, inspectors focused their visits on chartered real estate brokers whose last inspection was done between 2001 and 2003. In total, inspectors visited 307 brokers and examined brokerage contract and transaction records completed by 2,444 agents. Because larger establishments were inspected in 2004 (44 brokers with more than 30 agents), the number of brokers inspected is lower than last year, but the number of agents is higher.

To their annual priorities, inspectors may also add follow-up inspections when the violations noted require immediate action and a second monitoring visit.

## Startup service

In 2004, startup sessions were given to several brokers at a time at the ACAIQ. All new brokers are invited to attend a startup session, at their convenience, in lieu of what used to be the initial professional inspection visit at their principal establishment. More than 66 brokers attended these startup sessions, considerably accelerating the inspection process. Brokers are informed, right from the start of their business activities, about the many requirements regarding the keeping of books, records and registers and the minimum requirements regarding advertising.

## Conflicts of interest and notices of disclosure

The Professional Inspection Department verifies all notices of disclosure sent to the ACAIQ, in accordance with section 23 of the *Real Estate Brokerage Act*. In 2004, over 1,551 notices were received and verified, an increase of more than 25% over 2003.

Of this number, 207 were referred to the Inspection Committee for further analysis, representing an increase of over 220% this year. These are primarily cases involving notices missing from files, missing signatures, the notice signing period (signed after promise to purchase is accepted) and the duty to advise when setting the selling price and regarding speculation.

In 2004, 126 commitment requests were sent to members who had not or had incorrectly completed their notices of disclosure. Letters were sent to their brokers and to collaborating agents to make them aware of their obligation to collaborate to get the signatures of prospective contracting parties, who must be informed of the conflict of interest.

This massive increase in the number of cases involving conflicts of interest is taken very seriously by the Professional Inspection Committee, and new strategies will be developed in 2005 to raise the awareness level of its members on how to complete the notices properly and on their obligation to avoid placing themselves in situations of conflict of interest. There are several conflict of interest scenarios and although some situations are consistent with the regulations, others violate several provisions of the Act and its regulations, including the obligation to protect the client's interest and to advise the client objectively.

## Trust accounts


As of December 31, 2004, 436 brokers had a trust account, down eight from 2003. This decrease is similar to 2003, when nine accounts had been closed. Still, this concerns the Committee since the number of trust accounts has a direct impact on the protection of the public. This being the case, inspectors will continue to encourage brokers to maintain a trust account by promoting its many advantages, including the protection afforded by the *Fonds d'indemnisation du courtage immobilier*. To this effect, the Association has published an article outlining the benefits of making a down payment, including to show the seriousness of the buyer, as an additional argument when several promises to purchase are submitted, and as a protection against embezzlement via the Fund.

## Educational activities

An education session on conflicts of interest and civil jurisprudence will be available in 2005 to inform members on the topic of disclosure obligations and their direct impact on a real estate transaction. Remember that a consumer may withdraw from the transaction without penalty if he did not receive the notice of disclosure according to proper procedures.



Several other educational activities are recommended to members following an inspection, including mandatory forms, records, books and registers, and trust accounts. The Professional Inspection Department plans to reinforce its recommendations to members by suggesting specific registration dates and following up on registrations with the Education Department



**Raymond Desbiens**

Chairman of the Professional Inspection Committee

## OTHER PROJECTS

### Registers

Among the projects undertaken by the Committee in 2004 was a revision of the ACAIQ brokerage contract and transaction registers. The purpose of this revision was to update the registers to allow space for information on the new brokerage contracts to purchase.

### Annual declaration

Like other professional orders, in 2004 the Committee initiated an annual declaration project. This declaration will be sent at the beginning of each year to all brokers, whether or not they were inspected during the year. The purpose of the questions will be to update our information, including fields of activity, advertising, records, registers and the various notices of disclosure. To make this declaration easy to send and complete, it should be available via Internet in 2005.

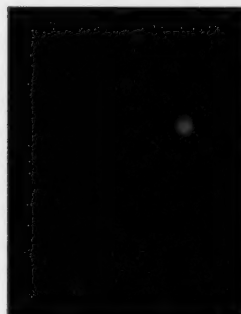
## STATISTICS 2004

Broker inspections	307
Residential	210
Commercial	30
Agricultural	1
Startups	66
Agent reports	2,444
Number of brokers who have a trust account	
End of December 2003	444
End of December 2004	436
Receipt and review of notices of disclosure	1,551
Transactions records analyzed by the Committee	207
Referred to the Assistance Department	23
Referred to the Office of the Syndic	10

# Treasurer's Report

*The Association des courtiers et agents immobiliers du Québec ended its fiscal year 2004 with an excess of revenues over expenses of \$1,234,816. Revenues totalled \$9,432,705 compared to \$7,986,439 the previous year, and expenses increased to \$8,197,889 from \$7,169,247 in 2003.*

*The momentum gathered in 2003 was carried through in 2004. The management committee continued to focus on cost control. A booming real estate market in 2004 was responsible for an influx of new members and generated a substantial increase in revenues, enabling us to post a surplus.*

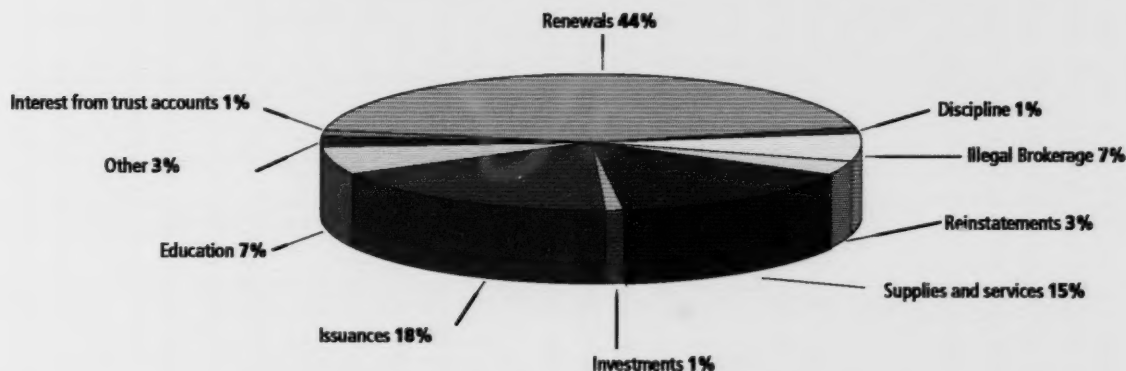


**Daniel Pelchat, Treasurer**  
Chairman of the Finance Committee

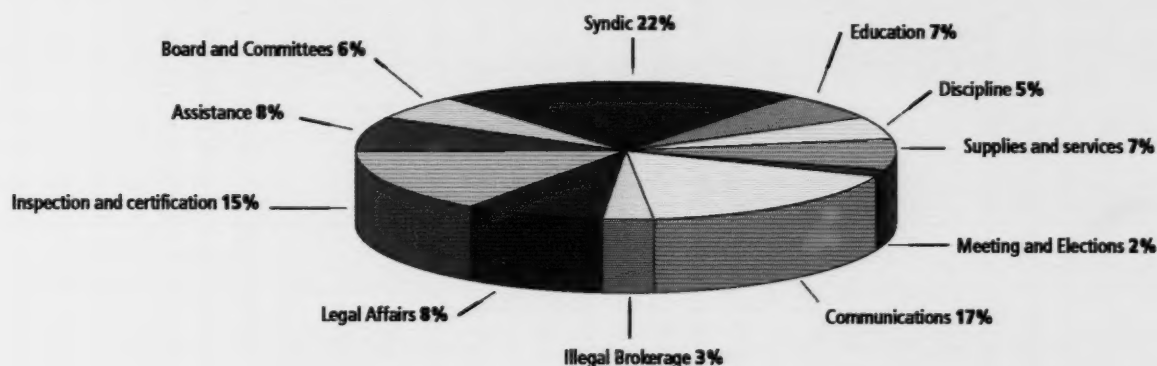
This year's highlights include an increase of about \$1,400,000 in revenues. Of this amount, approximately \$1,100,000 came from new members. In addition, an unprecedented volume of transactions carried out by our members led to an increase of \$348,000 in sales of supplies. Concerning the entrance examination, a higher number of candidates as well as the levy of new administrative charges both helped us eliminate our budget deficit.

On the expense side, salaries and payroll taxes rose by about \$400,000, an increase which is explained in part by staff additions. The Association also invested \$130,000 in the development and deployment of real estate brokerage electronic forms. An increase of some \$170,000 in computer expenses enabled us to upgrade our computer population and make our databases both more secure and user-friendly.

## REVENUES 2004: \$9,432,705



## EXPENSES 2004: \$8,197,889

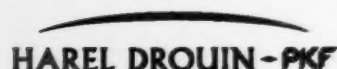


The ACAIQ's accumulated surplus was \$2,271,117 as of December 31, 2004. This surplus will help the Association deal with the cost of implementing the new *Real Estate Brokerage Act* while providing a cushion for the more difficult years. As we know, revenues

are directly linked to real estate market activity, which will always remain cyclical.

**Daniel Pelchat**  
Chairman of the Finance Committee

# Auditors' Report



*To the members of  
Association des courtiers et  
agents immobiliers du Québec*

**W**e have audited the balance sheet of the ASSOCIATION DES COURTIERS ET AGENTS IMMOBILIERS DU QUÉBEC as at December 31, 2004 and the statements of income and changes in net assets for the year then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements fairly present, in all material respects, the financial position of the Association as at December 31, 2004 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*Harel Drouin - PKF*

Montréal, February 4, 2005

## Statement of income

for the year ended December 31, 2004

	2004	2003
<b>Revenues</b>		
Members' fees	\$6,153,278	\$5,251,794
Supplies and services - Schedule	865,219	517,424
Illegal practice - Schedule	376,028	336,587
Investments and other income	342,784	284,488
Interest from trust accounts, net (Note 5)	12,308	111,811
	<b>7,749,617</b>	<b>6,502,104</b>
<b>Expenses</b>		
Salaries and employee benefits	3,107,230	2,678,908
Office expenses	351,548	265,639
Occupancy expenses	247,378	287,680
Discipline - Schedule	298,417	157,849
Education - Schedule	(79,939)	118,322
Attendance allowance and employee benefits	462,919	448,147
Meeting and travelling	246,345	154,953
Elections	43,183	41,353
Publications and public relations	152,602	106,634
Professional fees	1,170,001	1,087,997
Financial expenses	84,146	60,085
Contribution to the registraire des entreprises (Note 7)	144,827	134,637
Technological conversion	126,172	-
Amortization	159,972	142,708
	<b>6,514,801</b>	<b>5,684,912</b>
<b>Excess of revenues over expenses</b>	<b>\$1,234,816</b>	<b>\$817,192</b>

## Statement of changes in net assets

for the year ended December 31, 2004

	Invested in property, plant and equipment	Externally restricted	Unrestricted	2004 Total	2003 Total
<b>Balance, beginning of year</b>	\$1,137,849	\$	\$(101,548)	\$1,036,301	\$219,109
Excess (deficiency) of revenues over expenses	(375,635)	(723,523)	2,333,974	1,234,816	817,192
Investments in property, plant and equipment	794,522	-	(794,522)	-	-
Externally restricted (Note 5)	-	723,523	(723,523)	-	-
<b>Balance, end of year</b>	<b>\$1,556,736</b>	<b>\$</b>	<b>\$714,381</b>	<b>\$2,271,117</b>	<b>\$1,036,301</b>


## Balance sheet

as at December 31, 2004

	2004	2003
<b>Assets</b>		
<b>Current assets</b>		
Cash	\$2,674,731	\$2,300,735
Cash in trust accounts	37,529	19,063
Temporary investments, 2.25% to 5.9%	4,590,076	3,340,580
Accounts receivable	168,630	161,069
Interests receivable	15,244	-
Notes receivable	-	50,673
Supplies inventory	137,209	128,113
Prepaid expenses	175,339	179,503
	<b>7,798,758</b>	<b>6,179,736</b>
Property, plant and equipment (Note 3)	1,792,946	1,395,306
	<b>\$9,591,704</b>	<b>\$7,575,042</b>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable (Note 4)	\$1,756,355	\$1,499,881
Deferred revenues	5,328,022	4,781,403
	<b>7,084,377</b>	<b>6,281,284</b>
Deferred lease inducement, at amortized cost	236,210	257,457
	<b>7,320,587</b>	<b>6,538,741</b>
<b>Nets assets</b>		
Invested in property, plant and equipment	1,556,736	1,137,849
Unrestricted	714,381	(101,548)
	<b>2,271,117</b>	<b>1,036,301</b>
	<b>\$9,591,704</b>	<b>\$7,575,042</b>

On behalf of the board:

  
Director

  
Director



# Notes to financial statements

as at December 31, 2004

## 1. Description of the organization

The ASSOCIATION DES COURTIERS ET AGENTS IMMOBILIERS DU QUÉBEC (ACAIQ), incorporated under the *Real Estate Brokerage Act* (Quebec), has a primary role in ensuring the protection of the public by the enforcement of rules of professional ethics and the professional inspection of its members, and in particular by seeing that its members pursue their activities in accordance with the Act and regulations.

It may also dispense continuing education courses to its members and award the titles referred to in Section 76 of the Act.

## 2. Significant accounting policies

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies.

### a) Revenue recognition

The Association follows the deferral method of accounting for contributions. Restricted contributions are recognized as revenue in the year in which the related expenses are incurred. Unrestricted contributions are recognized as revenue when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

### b) Contribution to the registraire des entreprises

Contribution to the registraire des entreprises are estimated based on last year's payment. Any difference with the amount effectively payable will be adjusted in the year in which we will be billed. The engaged expenses for the application of the *Real Estate Brokerage Act* (Quebec), determined every year by the government, are at the Association expenses.

### c) Temporary investments

Temporary investments are recorded at cost.

### d) Supplies inventory

The supplies inventory is valued at the lower of cost and net realizable value. Cost is determined under the first in, first out basis.

### e) Property, plant and equipment

Property, plant and equipment are recorded at cost and are amortized on the straight-line method, at the following periods :

Furniture	10 years
Office equipment	4 years
Telephone equipment	5 years
Computer equipment	3 years
Updates	1 year
Leasehold improvements	Lease term of 10 years

### f) Deferred revenues

Income from annual fees is charged to the statement of revenues and expenses on a monthly basis over the duration of the broker certificates which is of 12 months. In accordance with the articles 33 and 37 of the *By-law of the ACAIQ*, they are not refundable to members and they will be applicable on the results in the next year-end.

### g) Deferred lease inducement

Deferred lease inducement represents a total of \$438,273 (\$415,125 in 2003) collected from the landlord as lease inducements. This income is amortized on a straight-line basis over the duration of the lease, which expires in January 2010. The amortization is applied against occupancy expenses in the statement of revenues and expenses.

### h) Statement of cash flows

A statement of cash flows has not been presented as it would not provide the reader with any additional useful information.

### 3. Property, plant and equipment

	2004		2003	
	Cost	Accumulated amortization	Net book value	Net book value
Furniture	\$509,925	\$285,055	\$224,870	\$146,092
Office equipment	314,001	128,525	185,476	52,159
Telephone equipment	139,630	85,085	54,545	3,836
Computer equipment	817,689	402,664	415,025	346,071
Leasehold improvements	1,546,486	633,456	913,030	847,148
	<b>\$3,327,731</b>	<b>\$1,534,785</b>	<b>\$1,792,946</b>	<b>\$1,395,306</b>

The amortization on property, plant and equipment for the year ended December 31, 2004 is \$415,363 (\$304,798 in 2003).

### 4. Accounts payable

	2004	2003
Accounts payable	\$579,018	\$444,484
Accrued liabilities	211,992	199,412
Salaries and deductions at source	335,566	269,788
Sales taxes	629,779	586,197
	<b>\$1,756,355</b>	<b>\$1,499,881</b>

### 5. Fund for public information

The Financing fund of the Association des courtiers et agents immobiliers du Québec for public information was established by the Board of Directors of the Association in accordance with the *Real Estate Brokerage Act* (Québec). The Fund consists of interest generated by the sums of money held in trust, in conformity with the Act. The Fund must be used primarily for the production and release of information relating to the rights of the public in the field of real estate brokerage and subsidiarily for professional inspection of the members of the Association and, if funds are sufficient, for discipline of those members.

Interest paid to the Fund and Fund-related expenses, which are included in the revenues and expenses of the Association, are as follows:

#### i) Interest from trust accounts, net:

	2004	2003
Interest on sums of money held in trust	\$122,415	\$179,351
Salaries and employee benefits	50,509	14,929
Advertising	48,510	15,612
Professional fees	5,718	8,469
Printing	5,370	28,207
Delivery	-	323
	<b>110,107</b>	<b>67,540</b>
	<b>\$12,308</b>	<b>\$111,811</b>

#### ii) Fund-related expenses included in the statement of revenues and expenses:

Information relating to public rights *	\$148,731	\$123,414
Professional inspection	161,363	175,770
Discipline	425,737	313,693
	<b>\$735,831</b>	<b>\$612,877</b>

\* Directly available to the public : \$145,832 in 2004 and \$121,766 in 2003.

iii) Fund balance, end of year	Nil	Nil
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## 6. Commitments

As at December 31, 2004, the balance of commitments under a lease agreement for its premises, expiring in January 2010, amounts to \$2,080,602. Minimum lease payments in each of the next five years are as follows:

2005	2006	2007	2008	2009
\$407,393	\$415,828	\$420,585	\$404,546	\$398,257

The Association is also committed under professional services contracts to pay \$512,054 in 2005.

## 7. Contribution to the registraire des entreprises

The amount of the contribution of the registraire des entreprises is composed of:

	2004	2003
Reversal of the previous year-end provision	\$(114,000)	\$(131,250)
Received bill during the year	146,327	151,887
Provision for the last nine months of the year-end (9/12 of the previous bill)	112,500	114,000
	\$144,827	\$134,637

## 8. Contingencies

During the year 2001, one proceeding was instituted in the amount of \$1,410,000 against the Association. Neither the possible outcome nor the amount of possible settlement can be foreseen. Therefore, no provision has been recorded in the financial statements. However, the Association is covered by a liability insurance for an amount up to \$2,000,000 for this sinister.

## 9. Financial instruments

The fair value of cash, cash in trust accounts, temporary investments, accounts receivable, notes receivable and accounts payable is comparable to their book value given their forthcoming maturities.

## Supplementary information

for the year ended December 31, 2004

	2004	2003
<b>Supplies and services</b>		
Revenue	\$1,450,223	\$1,146,533
Direct costs		
Cost of sales	516,118	478,091
Salaries and employee benefits	61,700	127,679
Printing and translation	2,100	8,188
Professional fees	2,146	11,780
Bad debt	1,029	1,162
Other costs	1,911	2,209
	585,004	629,109
	\$865,219	\$517,424
<b>Illegal practice</b>		
Revenue	\$608,400	\$562,650
Renewals	9,440	7,258
Penalties		
	617,840	569,908
Costs		
Penal investigations	86,482	104,251
Legal fees	20,031	31,699
Salaries and employee benefits	126,306	88,502
Occupancy expenses	2,554	3,231
Amortization	2,622	2,854
General administration	3,817	2,784
	241,812	233,321
	\$376,028	\$336,587
<b>Discipline</b>		
Revenue		
Penalties and disbursements received	\$127,320	\$155,845
Direct costs		
Discipline committee	129,612	85,645
Salaries and employee benefits	86,786	84,053
Occupancy	90,291	35,895
Delivery	38,247	24,853
Public notices	9,774	13,468
Professional fees	25,571	30,420
Bad debts	27,965	18,876
Amortization	5,245	5,708
Office expenses	12,246	14,776
	425,737	313,694
	\$(298,417)	\$(157,849)
<b>Education</b>		
Revenue	\$618,846	\$398,519
Direct costs		
Salaries and employee benefits	263,522	302,459
Occupancy	88,759	70,139
Amortization	10,490	11,417
Publication	22,028	20,677
Travelling	49,231	26,578
Professional fees	92,210	72,561
Office expenses	12,667	13,010
	538,907	516,841
	\$79,939	\$(118,322)

